

FILED

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MAY 19 2005

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court	District	Delaware	U.S. DISTRICT COURT DISTRICT OF DELAWARE
Name (under which you were convicted)	Docket or Case No.: 05-315		
GREGORY A. BORDLEY			
Place of Confinement	1999	Prisoner No.:	#00155019
D.C.C. 1181 Paddock Road Smyrna, Del.			
Petitioner (include the name under which you were convicted)	Respondent (authorized person having custody of petitioner)		
GREGORY A. BORDLEY	v. Thomas Langille (Warden) M. J. Brady Chief DA		
The Attorney General of the State of M. J. Brady Chief Attorney General for Delaware			

## PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: SUPERIOR Court, Kent County, Dover, Delaware 19901  
 (b) Criminal docket or case number (if you know): DUL NO# 9801004118
2. (a) Date of the judgment of conviction (if you know): JANUARY 7, 1999  
 (b) Date of sentencing: FEBRUARY 11, 2000
3. Length of sentence: LIFE IMPRISONMENT / Habitual Offender II Del. C. 424(b)
4. In this case, were you convicted on more than one count or of more than one crime? Yes  No
5. Identify all crimes of which you were convicted and sentenced in this case: FIRST  
felony Burglary, Title 11, Del. C. 826  
Third degree ASSAULT, Title 11, Del. C. CII  
Criminal Mischief, Title 11, Del. C. 811
6. (a) What was your plea? (Check one)
 

(1) Not guilty <input checked="" type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

 (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? N.A.

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(c) If you went to trial, what kind of trial did you have? (Check one)

Jury  Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes  No

8. Did you appeal from the judgment of conviction?

Yes  No

9. If you did appeal, answer the following:

(a) Name of court: Supreme Court of the State of Delaware

(b) Docket or case number (if you know): No. 79, 2000

(c) Result: Affirmed

(d) Date of result (if you know): October 25, 2000 App.

(e) Citation to the case (if you know): 263 A.2d 90, 2000 Wh 1626987 (Del. Supr.)

(f) Grounds raised: The State failed to prove that defendant assaulted or terroristically threatened the alleged victim during the course of a burglary, where the alleged acts occurred outside of the dwelling, and the indictment did not allege that the offenses occurred within the immediate flight from the dwelling.

(g) Did you seek further review by a higher state court? Yes  No

If yes, answer the following:

(1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Result: N/A

(4) Date of result (if you know): N/A

(5) Citation to the case (if you know): N/A

(6) Grounds raised: N/A

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(h) Did you file a petition for certiorari in the United States Supreme Court? Yes  No

If yes, answer the following:

(1) Docket or case number (if you know): N/A

(2) Result: N/A(3) Date of result (if you know): N/A(4) Citation to the case (if you know): N/A

10. Other than the direct appeals listed above, have you previously filed any other petitions,

applications, or motions concerning this judgment of conviction in any state court?

Yes  No 

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Superior Court K/c Dover Del. 19901(2) Docket or case number (if you know): DUC No #981004118(3) Date of filing (if you know): June 7, 2001(4) Nature of the proceeding: MOTION For Postconviction Relief

(5) Grounds raised:

(9) grounds were raised which are listed in the Memorandum of Law!(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No (7) Result: Denied(8) Date of result (if you know): September 30, 2002 App.

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Superior Court K/c Dover De. 19901(2) Docket or case number (if you know): DUC. No. 981004118(3) Date of filing (if you know): October 12, 2002(4) Nature of the proceeding: MOTION For Reconsideration(5) Grounds raised: Conflict of Interest and Ineffective Assistance of Counsel

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result: Denied

(8) Date of result (if you know): August 29, 2003 App

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: N/A

(5) Grounds raised: N/A

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result: N/A

(8) Date of result (if you know): N/A

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes  No

(2) Second petition: Yes  No

(3) Third petition: Yes  No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

N/A

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12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Ineffective Assistance of Counsel - Conflict of Interest

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

My attorney, Richard Baumeister mislead me to believe that I could not be sentence under the habitual offender status. Mr Baumeister violated professional conduct when he was both parties lawyer. Mr. Baumeister never interviewed states key witness or investigated the crime. see... memorandum of law!

- (b) If you did not exhaust your state remedies on Ground One, explain why: N/A
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- (c) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

- (2) If you did not raise this issue in your direct appeal, explain why: It was Not raised on direct appeal because of the conflict of interest with the public defender's office.

- (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion For Postconviction Relief 61.

Name and location of the court where the motion or petition was filed:

Superior Court of Delaware 19901

Docket or case number (if you know): DUC No. # 9801004118Date of the court's decision: September 30, 2002Result (attach a copy of the court's opinion or order, if available): Denied

(3) Did you receive a hearing on your motion or petition?

Yes  No 

(4) Did you appeal from the denial of your motion or petition?

Yes  No 

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No 

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court  
of the State of DelawareDocket or case number (if you know): No. 596Date of the court's decision: Dec. April 1, 2003 AppResult (attach a copy of the court's opinion or order, if available): Affirmed(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: MotionFor Reconsideration, Denied August 29, 2003  
Appeal No. 482, 2003 Affirmed June 30, 2004 AppGROUND TWO: Trial Judge abused his discretion when he denied counsel's request for a continuance.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner claims he was denied a fair trial and trial judge abused his discretion when he denied trial counsel's request for a continuance for further discovery and investigation →

this was a direct violation of petitioner's 6<sup>th</sup> and 14<sup>th</sup> amendment rights to a fair trial, see... memorandum of law!

(b) If you did not exhaust your state remedies on Ground Two, explain why: N/A

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(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: It was not raised on direct appeal no. 79, 2000 because of a conflict of interest with the public defenders office

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion For Postconviction Relief

Name and location of the court where the motion or petition was filed: Superior Court k/c Dover De. 19901

Docket or case number (if you know): DUC. No. #9801004119

Date of the court's decision: September 30, 2002

Result (attach a copy of the court's opinion or order, if available): Denied

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(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court  
of the State of Delaware

Docket or case number (if you know): No. 596, 2002

Date of the court's decision: April 1, 2003

Result (attach a copy of the court's opinion or order, if available): Affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: MOTION  
For Reconsideration, Denied August 29, 2003  
Appeal No. 482, 2003 Affirmed June 30, 2004.

GROUND THREE: Petitioner claims he was denied full cross-examination of state's witness

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):  
Trial Judge abused his discretion by not allowing cross-examination of states witness concerning her mental history and three prior commitments to the Delaware State Hospital, this violated petitioners 6<sup>th</sup> and 14<sup>th</sup> amendment rights to a fair trial see... memorandum of law!

(b) If you did not exhaust your state remedies on Ground Three, explain why: N/A

(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: It was not raised on direct appeal because of the conflict of interest with the public defenders office

## (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion For Postconviction Relief

Name and location of the court where the motion or petition was filed: Superior

Court #1c Dover De. 19901

Docket or case number (if you know): D.U.C. No #9801004118

Date of the court's decision: September 30, 2003

Result (attach a copy of the court's opinion or order, if available): Denied

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court  
of the State of Delaware

Docket or case number (if you know): 596, 2002

Date of the court's decision: April 1, 2003

Result (attach a copy of the court's opinion or order, if available): Affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this

issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: Motion  
For Reconsideration, Denied August 29, 2003  
Appeal No. 482, 2003 Affirmed June 30, 2004

GROUND FOUR: Petitioner claims he was illegally denied evidence to be submitted to the jury.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Trial Judge abused his discretion when he denied counsel's request to submit letters, cards and money order receipts the victim sent to the petitioner, this denied petitioner's right to a fair trial in violation of his 6<sup>th</sup> and 14<sup>th</sup> amendment rights. see... Memorandum of Law!

(b) If you did not exhaust your state remedies on Ground Four, explain why: N/A

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(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: It wasn't raised on direct appeal because of a conflict of interest

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion For Postconviction Relief

Name and location of the court where the motion or petition was filed:

Superior Court K/C Dover De. 19901

Docket or case number (if you know): DUC- No. #9801004118

Date of the court's decision: September 30, 2002

Result (attach a copy of the court's opinion or order, if available): Denied

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(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court  
of the State of Delaware

Docket or case number (if you know): No. # 596, 2002

Date of the court's decision: April 1, 2003

Result (attach a copy of the court's opinion or order, if available): Affirmed

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:  
Motion For Reconsideration, Denied August 29, 2003, Appeal No. 482, 2003  
Affirmed June 30, 2004

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13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes  No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: N/A

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(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: N/A

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14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. N/A

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15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Ms. Sandra Dean ESO

(b) At arraignment and plea: Mr. Richard Baumeister ESO

(c) At trial: Mr. Richard Baumeister ESO

(d) At sentencing: Mr. Paul S. Swierzbinski

(e) On appeal: Mr. Bernard T. O'Donnell

(f) In any post-conviction proceeding: pro-se

(g) On appeal from any ruling against you in a post-conviction proceeding: pro-se

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes  No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: NONE

(b) Give the date the other sentence was imposed: NONE

(c) Give the length of the other sentence: NONE

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes  No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\* "AEDPA" Does not apply because the postconviction proceedings ended June 30, 2004 and the petitioner is filing this Writ of Habeas Corpus within the one year of the last proceeding of postconviction relief in State Court.

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

Therefore, petitioner asks that the Court grant the following relief: Petitioner humbly  
prays this Honorable Court to reverse and remand  
this case for a New Trial.

or any other relief to which petitioner may be entitled.

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Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct  
and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on  
\_\_\_\_\_ (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

Xhegoy L. Bradley  
Signature of Petitioner

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\*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

\* \* \* \* \*

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